

Application Serial No. 09/806,810  
Amdt. dated July 12, 2004  
Reply to Office Action of February 12, 2004

### **REMARKS/ARGUMENTS**

In the Office Action dated February 12, 2004, the Examiner has rejected the subject matter of Claims 4-9 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,454,427 to Westbrook et al. The Examiner has also rejected the subject matter of Claims 4-9 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,204,763 to Sone. The Examiner has also rejected the subject matter of Claims 4-9 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,454,427 to Westbrook et al. in view of U.S. Patent No. 5,553,609 to Chen et al. The references and the Examiner's rejection of the various claims are discussed in detail below.

The Examiner has also objected to the Drawings under 37 C.F.R. 1.83(a). Specifically, the Examiner has requested that the supplier of food portion as recited in Claim 5, telecommunication network as recited in Claim 8, and a system for controlling a user's nutritional level as recited in Claim 9 must be shown in the drawings.

The Examiner has rejected Claim 6 under 35 U.S.C. §112, first paragraph, and has rejected Claims 5-9 under 35 U.S.C. §112, second paragraph.

In response to the rejections, Applicant has undertaken to submit a substitute drawing sheet showing Figure 2 attached under Attachment A. Applicant has amended Figure 2 to include a supplier of food portion, telecommunication network, and a system for controlling user's nutrition level. Applicant directs the Examiner to the specification, page 4, lines 10, which describes the telecommunications network, and page 4, line 24 which describes the supplier of food portion. Applicant further directs the Examiner's attention to the specification page 5, lines 20-26 which describes a system for controlling a user's nutrition level. Applicant avers that no new matter has been added.

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Applicant has amended the specification to delete references to specific claim numbers. Specifically, the paragraphs on page 1, lines 4-7 and on page 1, line 25 ending on page 2, line 4 have been amended to properly conform with United States practice. Applicant submits that the amendment to the specification is supported by the original claims as presented with the application on the original filing date. Applicant avers that no new matter has been added.

Regarding the rejection of Claim 6 under 35 U.S.C. §112, first paragraph as failing to comply with the enablement requirement, Applicant respectfully submits that one skilled in the art is fully enabled to implement the transfer mechanism. Applicant directs that Examiner's attention to page 6, lines 31-37 and page 7, lines 1-18 which describes the transfer mechanism (2). Specifically, the transfer mechanism (2) has a transfer device (12 and 13) which moves the food portion (15) from the storage box (11) and uses hoist guides (14). The transfer device also includes transfer pan (12) and transfer gear (13). Applicant submits that one skilled in art would know how the transfer mechanism operates and that the transfer mechanism is described in sufficient detail in the specification to enable one skilled in the art to make the present invention. Accordingly, Applicant requests favorable reconsideration Claim 6.

Applicant has amended Claims 5, 6 and 8 to address the 35 U.S.C. §112, first paragraph and second paragraph rejections. Applicant has amended Claim 5 to more specifically define the present invention. Applicant submits that Claim 6 is not indefinite. Specifically, Applicant submits that the transfer mechanism of Claim 6 is described in detail in the specification from page 6, line 32 through page 7, line 18. Applicant further submits that Claim 4 defines that the hot and cold units are integrated into a single assembly. Applicant directs the Examiner's attention to the specification page 2, lines 12-18 which describes that "integrated apparatus" means that the heating, storage and the serving of the food are in one place. Applicant has amended Claim 8 to more specifically define the present

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invention. Specifically, the combination of the apparatus with a telecommunication network is claimed in Claim 8. Applicant avers that the amendments to the claims were not motivated by the prior art and that no new matter has been added. Applicant respectfully requests favorable reconsideration of Claims 5-9.

Applicant has amended Claim 4 to more specifically define the present invention. Specifically, Claim 4 has been amended to state that "a means for a control center" is claimed. Applicant wishes to invoke 35 U.S.C. §112, sixth paragraph. Applicant has also amended Claim 4 to further include a telecommunication network. Applicant avers no new matter has been added and that the amendment was not motivated by the prior art.

Applicant submits that Claims 10-13 were originally presented in a Preliminary Amendment filed on April 30, 2001. A copy of the Preliminary Amendment and the return postcard dated May 2, 2001 is enclosed for the Examiner's ease of review as Attachment B. Applicant avers that no new matter has been added and respectfully requests favorable consideration of Claims 10-13.

Applicant has added new Claims 14-19 to more specifically define the present invention. Applicant submits that support for the new claims can be found within the specification from page 4, lines 21-37 and page 5, line 1-19. Applicant avers that no new matter has been added and respectfully requests favorable consideration of Claims 14-19.

Claims 4-19 remain in the present application for continued prosecution.

The Examiner has rejected the subject matter of Claims 4-9 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,204,763 to Sone. Applicant traverses the rejection

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and requests withdrawal based on the fact that the Sone '763 patent is not a reference under 35 U.S.C. §102(e).

Under 35 U.S.C. §102(e) a United States patent can only be used as a reference if it describes an Applicant's invention before the invention by the Applicant. An application for a patent in the United States based on an international application designating the United States is entitled to the right of priority to a prior foreign application under 35 U.S.C. §365(b). MPEP §201.13(b). The right of priority allows for the earlier filed application to be considered as filed in the United States as of the filing date of the earlier filed application. 35 U.S.C. §119(a).

Applicant submits that its prior foreign application's filing date of October 5, 1998 antedates the Sone '763 reference's filing date of March 22, 1999. Applicant has enclosed for the Examiner's review a certified translation of priority document Finland Application No. U980432 filed on October 5, 1998 to perfect the claim to priority. Applicant respectfully requests that the rejection based on the Sone '763 reference be withdrawn in view of the earlier perfected filing date of the Finland priority document. MPEP §706.02(b)(E).

Applicant has enclosed for the Examiner's ease of review a certified translation of priority document Finland Application No. U980432 filed on October 5, 1998. Applicant respectfully requests that the rejection based on the Sone '763 reference be withdrawn in view of the earlier filing date of the Finland priority document.

Claims 4-9 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,454,427 to Westbrook et al. The Examiner contends that the Westbrook et al. '427 reference discloses a cold storage space and a heating unit that are integrated into a

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single assembly which is controlled by a control center, and a user interface and network. Applicant traverses the rejection and request withdrawal based on the following analysis.

Applicant respectfully submits that the Westbrooks et al. '427 reference does not teach or suggest an apparatus handling food portions having a cold storage space and a heating unit that is integrated into a single assembly. Instead, the Westbrooks et al. '427 reference teaches a delivery cart that handles several refrigerated food portions. The refrigerated food portions are heated simultaneously in the cart when the delivery cart is placed in a docking location inside of a refrigerator to heat the food. This is not the same invention as the present invention where a cold storage space and a heating unit are contained within a single apparatus. The Westbrooks et al. '427 reference has a separate cart which has heating units in it that can heat up when necessary. Frozen food items are not physically moved from a cold storage area but are merely heated up inside of the storage cart when the heating units are turned on. Applicant submits that the Westbrooks et al. '427 reference does not integrate a cold storage space and a heating unit within a single assembly as defined in Claim 4, as amended. Applicant further submits that the connection line 40 in the Westbrooks et al. '427 reference is an internal connection line to operate the system itself. The connection line 40 does not connect the apparatus to external network such as a telecommunications network or the Internet as defined in Claim 4, as amended.

Claims 4-9 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Westbrooks et al. '427 reference in view of U.S. Patent No. 5,553,609 to Chen et al. The Examiner contends that the claims are anticipated because of inherencies noted above. In the alternative, the Examiner contends that it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the Westbrooks et al. '427 reference as taught by the Chen et al. '609 reference to include a network. Applicant traverses the rejection and requests withdrawal based on the following analysis.

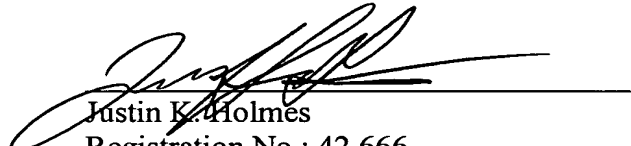
Application Serial No. 09/806,810  
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Applicant respectfully submits that one skilled in the art would not be motivated to combine the Westbrooks et al. '427 reference with the Chen et al. '609 reference. Specifically, the Chen et al. '609 reference does not relate to a food serving apparatus, but relates to a computer system for monitoring a patient for in-home patient healthcare. The Chen et al. '609 reference does not teach or suggest a food serving and preparation apparatus or device of any kind, and does not teach or suggest the device described as in the Westbrooks et al. '427 reference or as claimed in the present application. Further, the Westbrooks et al. '427 reference does not teach or suggest that a network should be used or combined with its device. Accordingly, there is no motivation in either reference to combine such dissimilar devices and technology.

Accordingly, Applicant submits that Claim 4, and those claims depending therefrom patentably distinguish over the prior art.

In view, therefore, of the amendment to the specification, drawings, claims as well as the remarks set forth above, Applicant firmly believes the present application is in all respects in condition for allowance which action is earnestly solicited.

Respectfully submitted,

  
Justin K. Holmes  
Registration No.: 42,666  
Attorney for Applicant

HOFFMANN & BARON, LLP  
6900 Jericho Turnpike  
Syosset, New York 11791  
(516) 822-3550  
JKH:kas  
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# **ATTACHMENT B**



**RECEIVED**  
JUL 20 2004  
**GROUP 3600**

APPLICANT: Jukka Penttinen  
SERIAL NO.: 09/806,810  
FILING DATE: April 2, 2001  
GROUP ART UNIT: Unassigned  
EXAMINER: Unassigned  
DOCKET: 513-3 PCT/US

Certificate of Mailing Dated: April 30, 2001

☐ Express Mail Label No.:

The U.S. Patent and Trademark Office date stamp  
will acknowledge receipt of the following

☒ Amendment transmittal (x2)

☒ Preliminary Amendment

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APPLICANT: Jukka Penttinen  
SERIAL NO.: 09/806,810  
FILING DATE: April 2, 2001  
GROUP ART UNIT: Unassigned  
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JKH:mak  
Hoffmann & Baron, LLP  
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Hoffmann & Baron, LLP  
513-0002

JC17 Rec'd PCT/PTO 02 MAY 2001





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**GROUP 3600**

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Jukka Penttinen

Examiner: Unassigned

Serial No.: 09/806,810

Group Art Unit: Unassigned

Filed: April 2, 2001

Docket: 513-3 PCT/US

For: METHOD AND APPARATUS  
FOR THE PROCESSING OF  
FOOD PORTIONS

Dated: April 30, 2001

Assistant Commissioner for Patents  
Washington, DC 20231

I hereby certify this correspondence is being deposited with the United States Postal Service as first class mail, postpaid in an envelope, addressed to:  
Assistant Commissioner for Patents, Washington, D.C.

20231 on April 30, 2001

Dated: 4/30/01 *Melinda Kerrigan*

**PRELIMINARY AMENDMENT**

Sir:

Prior to examining the above-identified National Phase PCT application, please amend the application as follows:

**IN THE SPECIFICATION:**

At Page 1, before line 4, insert the following section heading:

**--BACKGROUND OF THE INVENTION--**

At Page 1, before line 25, insert the following section heading:

**--SUMMARY OF THE INVENTION--**

At Page 3, before line 10, insert the following section heading:

**--BRIEF DESCRIPTION OF THE DRAWINGS--**

At Page 3, before line 16, insert the following section heading:

**--DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS--**

**IN THE CLAIMS:**

3. (Amended) Method as defined in claim 1, characterised in that the selection and the heating of the food portions is performed when needed by remote activation of the apparatus over the telecommunication network.

6. (Amended) Apparatus as defined in claim 4, characterised in that the apparatus comprises a transfer mechanism (2), which has been arranged to transfer food portions from the cold storage space into the heating unit and, if necessary, further to a serving device (4).

7. (Amended) Apparatus as defined in claim 4, characterised in that the apparatus comprises a data processing section (9), which has been arranged to function as a supervising element storing and distributing information and activating the functions of the apparatus.

8. (Amended) Apparatus as defined in claim 4, characterised in that the apparatus is connected to a telecommunication network, such as a telephone network or internet (8), over which the ordering of food portions, remote operation of the apparatus, transmission of failure information etc. have been arranged to be effected.

9. (Amended) Apparatus as defined in claim 4, characterised in that the apparatus comprises a system for controlling the user's nutrition level and diet.

Please add the following new claims:

--10. Apparatus as defined in claim 5, characterised in that the apparatus comprises a transfer mechanism (2), which has been arranged to transfer food portions from the cold storage space into the heating unit and, if necessary, further to a serving device (4).--

--11. Apparatus as defined in claim 5, characterised in that the apparatus comprises a data processing section (9), which has been arranged to function as a supervising element storing and distributing information and activating the functions of the apparatus.--

--12. Apparatus as defined in claim 6, characterised in that the apparatus comprises a data processing section (9), which has been arranged to function as a supervising element storing and distributing information and activating the functions of the apparatus.--

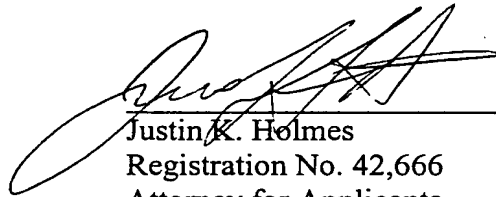
--13. Method as defined in claim 2, characterised in that the selection and the heating of the food portions is performed when needed by remote activation of the apparatus over the telecommunication network.--

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Serial No.: 09/806,810  
Filed: April 2, 2001  
Our Docket: 513-3 PCT/US  
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**REMARKS**

The application has been amended to conform the specification and claims to United States practice. None of the amendments made herein where in response to or in consideration of prior art. No new matter has been added. It is requested that the amendment to the claims be entered prior to calculation of the filing fee and examination.

Respectfully submitted,



Justin K. Holmes  
Registration No. 42,666  
Attorney for Applicants

Hoffmann & Baron, LLP  
6900 Jericho Turnpike  
Syosset, New York 11791  
(516) 822-3550  
JKH:mak

Applicants: Jukka Penttinen  
Serial No.: 09/806,810  
Filed: April 2, 2001  
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Page 5



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**GROUP 3600**

**VERSION OF AMENDMENT WITH MARKS**  
**TO SHOW CHANGES MADE**

**IN THE SPECIFICATION:**

At Page 1, before line 4, insert the following section heading:

**--BACKGROUND OF THE INVENTION--**

At Page 1, before line 25, insert the following section heading:

**--SUMMARY OF THE INVENTION--**

At Page 3, before line 10, insert the following section heading:

**--BRIEF DESCRIPTION OF THE DRAWINGS--**

At Page 3, before line 16, insert the following section heading:

**--DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS--**

**IN THE CLAIMS:**

3. (Amended) Method as defined in claim 1 [or 2], characterised in that the selection and the heating of the food portions is performed when needed by remote activation of the apparatus over the telecommunication network.

6. (Amended) Apparatus as defined in claim 4 [or 5], characterised in that the apparatus comprises a transfer mechanism (2), which has been arranged to transfer food

portions from the cold storage space into the heating unit and, if necessary, further to a serving device (4).

8. (Amended) Apparatus as defined in claim 4, [5 or 6,] characterised in that the apparatus comprises a data processing section (9), which has been arranged to function as a supervising element storing and distributing information and activating the functions of the apparatus.

8. (Amended) Apparatus as defined in claim 4 [any one of the preceding apparatus claims], characterised in that the apparatus is connected to a telecommunication network, such as a telephone network or internet (8), over which the ordering of food portions, remote operation of the apparatus, transmission of failure information etc. have been arranged to be effected.

9. (Amended) Apparatus as defined in claim 4 [any one of the preceding apparatus claims], characterised in that the apparatus comprises a system for controlling the user's nutrition level and diet.

Please add the following new claims:

--10. Apparatus as defined in claim 5, characterised in that the apparatus comprises a transfer mechanism (2), which has been arranged to transfer food portions from the cold storage space into the heating unit and, if necessary, further to a serving device (4).--

--11. Apparatus as defined in claim 5, characterised in that the apparatus comprises a data processing section (9), which has been arranged to function as a supervising element storing and distributing information and activating the functions of the apparatus.--

Applicants: Jukka Penttinen  
Serial No.: 09/806,810  
Filed: April 2, 2001  
Our Docket: 513-3 PCT/US  
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--12. Apparatus as defined in claim 6, characterised in that the apparatus comprises a data processing section (9), which has been arranged to function as a supervising element storing and distributing information and activating the functions of the apparatus.--

--13. Method as defined in claim 2, characterised in that the selection and the heating of the food portions is performed when needed by remote activation of the apparatus over the telecommunication network.--